

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M E M O R A N D U M

Date: April 29, 2002

To: The Commission
(Meeting of May 2, 2002)

From: Bill Julian
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 2669 (Maldonado)** - This bill would exempt telephone corporations regulated under a price-cap regulatory structure from the requirements of Article 5 of the Public Utilities Code related to stocks and security transactions (§ 816-830) provided the utility doesn't pledge a plant or assets to secure the financing.

The CPUC-OGA requests a formal position by the Commission for the above Assembly Bill. Please find bill summary attached.

AB 2669 (Maldonado) Public Utilities: Stocks and security transactions

As Introduced

RECOMMENDATION: Oppose

SUMMARY: This bill would exempt telephone corporations regulated under a price-cap regulatory structure from the requirements of Article 5 of the Public Utilities Code related to stocks and security transactions (§ 816-830) provided the utility doesn't pledge a plant or assets to secure the financing.

ANALYSIS: Existing law requires a utility to file an application with the Commission for approval to issue stocks, securities, bonds, and other evidences of indebtedness that are payable at periods of more than 12 months, and to state the purpose of the financing. Existing law empowers the Commission to preemptively evaluate the effects of financing transactions on ratepayers thereby protecting them from potential harm. AB 2669 would exempt from those stock and security transaction provisions a telephone corporation that is regulated under a price cap regulatory structure, as defined, unless the corporation secures the financing by pledging a plant or assets. Should AB 2669 pass, in order to responsibly discharge its regulatory obligations, the Commission would have to undertake an investigation into the financing activities of the telephone corporations regulated under a price-cap regulatory structure to determine if the public interest requires the re-imposition of the pre-approval process for utility financing activities. Such a proceeding is time consuming and costly to the Commission, the utilities regulated under price-caps, and to interested parties. Moreover, existing law provides the Commission with the authority to protect the State from being obligated to guarantee any stock or other evidence of indebtedness of a public utility. This section states that the State shall not be obligated to pay or guarantee in any manner whatsoever, any stock, bond, note, or other evidence of indebtedness that was authorized by the Commission under existing law. AB 2669 would eliminate these protections.

COMMENTS: The CPUC should oppose AB 2669 for the reasons stated above.

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Date: March 14, 2002

BILL LANGUAGE

BILL NUMBER: AB 2669 INTRODUCED

BILL TEXT

INTRODUCED BY Assembly Member Maldonado

FEBRUARY 22, 2002

An act to amend Section 829 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2669, as introduced, Maldonado. Public utilities: stocks and security transactions.

The Public Utilities Act generally exempts from provisions of that act governing stocks and security transactions any person or corporation that transacts no business subject to regulation under the act, except performing services or delivering commodities for or to public utilities or municipal or other public corporations primarily for resale or use in serving the public. Notwithstanding that general exemption, those provisions of the act governing stocks and security transactions apply to any public utility if the Public Utilities Commission finds that the application of those provisions is required by the public interest. The act authorizes the commission to exempt any public utility or class of public utility from those stock and security transaction provisions if it finds that their application is not necessary in the public interest.

This bill, except as specified, would exempt from those stock and security transaction provisions a telephone corporation that is regulated under a price-cap regulatory structure, as defined, unless the corporation secures the financing by pledging a plant or assets.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature that the amendments to Section 829 of the Public Utilities Code made by the act adding this section not hinder the commission's existing authority to disallow imprudent expenses or capital expenditures of the utilities under its jurisdiction, or the commission's authority to impute a capital structure or cost of capital for utilities under its jurisdiction.

SEC. 2. Section 829 of the Public Utilities Code is amended to read:

829. (a) This article ~~shall~~
does not apply to any a person or corporation which that transacts no business subject to regulation under this part, except performing services or delivering commodities for or to public utilities or municipal or other public corporations primarily for resale or use in serving the public or any portion thereof but shall , nevertheless , apply to any public utility if the commission finds, in a proceeding to which the public utility is or may become a party, that the application of this article is required by the public interest.

(b) (1) The requirements in this article for commission approval of utility financing do not apply to a telephone corporation that is regulated under a price-cap regulatory structure if the corporation does not pledge a plant or assets to secure the financing. However, this article shall continue to apply to any telephone corporation that is also an electric or gas corporation that is a public utility, as defined in Section 216. The term "price-cap regulatory structure," as used in this paragraph, is a system under which rates are not set by means of a rate base or rate-of-return form of regulation, but, instead, are limited by a maximum price that may be charged for a specific service, or are not limited.

(2) Notwithstanding paragraph (1), a telephone corporation as described in this subdivision shall remain subject to Section 817, that provision of Section 820 regarding contracts, Section 824, those provisions of Section 826 and subdivision (a) of Section 827 that impose penalties for disobeying statutory and constitutional requirements, and Section 830.

(3) Notwithstanding paragraph (1), the commission may reimpose any or all of the requirements of this article for commission approval of utility financing if the commission finds, in a proceeding to which the public utility is or may become a party, that the application of any or all of those requirements is required by the

public interest.

(c) The commission may from time to time by order or rule, and subject to ~~such~~ *those* terms and conditions ~~as that~~ may be prescribed *in the order or rule* ~~therein~~, exempt any public utility or class of public utility from ~~the provisions of this article, or any portion of this article~~, if it finds that the application ~~thereof of this article~~ to ~~such~~ a public utility or class of public utility is not necessary in the public interest.